

HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES

P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • <http://www.hro.house.state.tx.us>

Steering Committee:

Alma Allen, Chairman
Dwayne Bohac, Vice Chairman

Rafael Anchia
Myra Crownover
Joe Deshotel

Joe Farias
John Frullo

Donna Howard
Bryan Hughes
Ken King

Susan King
J. M. Lozano

Eddie Lucio III
Doug Miller
Joe Pickett

HOUSE RESEARCH ORGANIZATION

daily floor report

Friday, May 08, 2015
84th Legislature, Number 66
The House convenes at 9 a.m.
Part Four

Fourteen of the bills set for second-reading consideration on the daily calendar are listed on the following page.

The House will consider a Local, Consent, and Resolutions Calendar.



Alma Allen
Chairman
84(R) - 66

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Friday, May 08, 2015

84th Legislature, Number 66

Part 4

HB 2185 by Clardy	Executing certain search warrants for DNA specimens in any county	131
HB 3184 by McClendon	Establishing a victim-offender mediation program for criminal offenses	132
HB 1000 by Zerwas	Creating new research fund programs at higher education institutions	136
HB 309 by White	Requiring TJJD to study pay-for-performance contract program	138
HB 3402 by Smith	Allowing a venue district to act as an endorsing jurisdiction for funding	140
HB 282 by Dutton, Jr.	Amending the organization of a grand jury	142
HB 3193 by Bernal	Expanding local preference for municipal procurement	144
HB 3113 by Gonzales	Allocating a portion of the hotel occupancy tax to certain municipalities	146
HB 644 by Canales	Requiring legible magistrate name in search warrants; warrant tampering	148
HB 882 by Miller	Hiring of a director and assistant director of the TMPC	150
HB 963 by Bonnen	Designation of optometrists and ophthalmologists as preferred providers	152
HB 1318 by Button	Adding presidential debates as an eligible Major Events Trust Fund event	154
HB 1300 by Capriglione	Eligibility for admission to educator preparation programs	155
HB 1424 by Lozano	Revising drug Penalty Group 2-A for synthetic cannabinoids	156

SUBJECT: Executing certain search warrants for DNA specimens in any county

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Herrero, Moody, Canales, Hunter, Leach
1 nay — Simpson
1 absent — Shaheen

WITNESSES: For — Lon Craft, Texas Municipal Police Association; (*Registered, but did not testify*: Justin Wood, Harris County District Attorney's Office; Tiana Sanford, Montgomery County District Attorney's Office; Gary Chandler, Texas Department of Public Safety Officers Association; Frederick Frazier)

Against — (*Registered, but did not testify*: Patricia Cummings, Texas Criminal Defense Lawyers Association)

BACKGROUND: Code of Criminal Procedure, art. 18.01(b) prohibits the issuance of a search warrant unless sufficient facts are first presented to satisfy the issuing magistrate that probable cause exists for the warrant.

Code of Criminal Procedure, art. 18.02 (10) allows search warrants to be issued for property or items constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense.

DIGEST: HB 2185 would allow search warrants issued to collect DNA specimens for the purpose of connecting an individual to a criminal offense to be executed in any county, regardless of whether the issuing court's jurisdiction extended outside of the county in which the court was located.

The bill would take effect September 1, 2015, and would apply only to warrants issued on or after that date.

SUBJECT: Establishing a victim-offender mediation program for criminal offenses

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Leach, Simpson

0 nays

1 absent — Shaheen

WITNESSES: For — Douglas Smith, Texas Criminal Justice Coalition; Marc Levin, Texas Public Policy Foundation Center for Effective Justice; (*Registered, but did not testify*: Seth Mitchell, Bexar County Commissioners Court; William Martin, Rice University's Baker Institute; Lauren Rose, Texans Care for Children; Patricia Cummings, Texas Criminal Defense Lawyers Association; Rebecca Bernhardt, Texas Fair Defense Project; Paul Quinzi)

Against — (*Registered, but did not testify*: Will Ramsay, 8th Judicial District Attorney's Office; William Squires, Bexar County District Attorney; Jennifer Tharp, Comal County Criminal District Attorney; Stacey LaBarr, Guadalupe County Juvenile Services; Justin Wood, Harris County District Attorney's Office; Brian Eppes, Tarrant County Criminal District Attorney's Office)

On — Lynne Wilkerson, Bexar County Juvenile Probation; D. Gene Valentini, Office of Dispute Resolution for Lubbock County; Shannon Edmonds, TDCAA; (*Registered, but did not testify*: Chelsea Buchholtz, Texas Juvenile Justice Department)

BACKGROUND: Currently, a victim-offender mediation program exists under Civil Practice and Remedies Code, ch. 152. However, if a county does not have a civil dispute resolution system that accepts criminal cases, the law authorizing the mediation program does not apply to criminal cases in that county.

DIGEST: **Pretrial victim-offender mediation program.** CSHB 3184 would amend the Code of Criminal Procedure to create a pretrial victim-offender

mediation program for individuals who had been arrested for or charged with a misdemeanor or state jail-felony and had not previously been convicted of a felony or a misdemeanor, other than a misdemeanor regulating traffic and punishable by fine only.

An established mediation program would require:

- designation of defendants who were eligible to participate in the program;
- the prosecutor to consent to the referral;
- the consent of the victim to be documented in the court record; and
- the defendant to enter a binding mediation agreement in which the defendant took responsibility for his or her actions.

The bill would specify that all communications made in the mediation program were confidential and generally could not be introduced into evidence, that the program might require other resources to assist the court in monitoring the defendant's compliance with the agreement reached, and that program mediators be subject to certain requirements.

The bill would require that an agreement be in writing, signed by the defendant, and ratified by the prosecutor. The bill would specify what a mediation agreement could require and how long it would remain valid.

CSHB 3184 would require that the case proceed through the regular criminal justice system if:

- the mediation did not result in an agreement;
- the defendant failed to fulfill the terms of the mediation agreement by the specified date; or
- the mediator determined that the victim or defendant no longer wanted to participate or that the mediation would be ineffective.

The bill would ensure that if a case was returned to the docket, the running of the statute of limitation would be tolled while the defendant was enrolled in the program. If the defendant completed the mediation agreement and the court decided that dismissing the charges would be in

the interests of justice, the bill would require the court to dismiss the charges. This determination would be final. If a defendant was not arrested or convicted of a crime for a year after successfully completing mediation, the court would enter an order of nondisclosure on the motion of the defendant.

The bill would allow for review of the mediation programs by the Legislature, the commissioners court of a county or a governing body of a municipality, or juvenile justice departments.

Costs of mediation program. The bill would require that a defendant pay \$15 court costs plus additional fees not to exceed \$500 and based on a defendant's ability to pay. The bill would require fees to be collected by the court clerk and would limit the money to being used only for the maintenance of the mediation program in the county or municipality.

Court requirements. The bill would allow the commissioners court of any county or governing body of a municipality that established a mediation program to:

- refer persons arrested for a misdemeanor or state- jail felony who had no previous convictions and had not yet been formally charged with an offense;
- adopt administrative rules and local rules of procedure as necessary to implement the program;
- approve additional program requirements as recommended by the attorney representing the state; and
- defer proceedings without accepting a plea of guilty or nolo contendere or entering an adjudication of guilt.

A court could set a criminal case for a pre-trial hearing and direct the defendant to appear before the court regardless of whether the defendant had been formally charged. The bill would add a motion to allow the defendant to enter a pretrial victim-offender mediation program under the matters that could be determined at a pretrial hearing. The bill would allow a court to require a defendant who had not been formally charged, the defendant's attorney, and the state's attorney to appear before the court on a motion to allow the defendant to enter a pretrial victim-offender

mediation program.

Juvenile victim-offender mediation. The bill would amend the Family Code to require the Texas Juvenile Justice Board to establish guidelines before December 1, 2015, permitting victim-offender mediation programs to be implemented and administered by juvenile boards. The bill would require that all victims to whom this applied be informed of their right to request victim-offender mediation.

Any participation in mediation by a child and by a victim would be voluntary, and if a child's case was forwarded to a prosecutor prior to judicial proceedings, the attorney would have to consent to the mediation. If an agreement was not reached or the child did not successfully complete the terms of the agreement, the child's case would proceed in the regular juvenile justice system. The bill would require that this section only apply to mediations that occur after January 1, 2016.

A court could order the sealing of certain records of the child if the child completed a mediation program. The bill would allow the court to order the sealing of records with or without a hearing. If the records were sealed, the bill would still allow a separate record to be maintained until the child's 17th birthday.

The bill would apply to a defendant who entered a mediation program regardless of whether the defendant committed the offense before, on, or after the bill's effective date.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Creating new research fund programs at higher education institutions

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 7 ayes — Zerwas, Howard, Alonzo, Crownover, Morrison, Raney, C. Turner

0 nays

2 absent — Clardy, Martinez

WITNESSES: For — (*Registered, but did not testify*: Nelson Salinas, Texas Association of Business)

Against — None

On — Robert Duncan, Texas Tech University System; Renu Khator, University of Houston System (*Registered, but did not testify*: Rex Peebles, Texas Higher Education Coordinating Board)

BACKGROUND: The House budget proposal contains appropriations for three new university research funds over the next biennium:

- the Texas Research University Fund;
- the Comprehensive Research Fund; and
- the Core Research Support Fund.

The 84th Legislature would be required to pass legislation to reflect these new funds and provide for their administration.

DIGEST: CSHB 1000 would amend the Education Code to reflect the creation of these three new university research funds, removing, where appropriate, the names of the funds the new programs would be replacing and providing conforming language for the administration of the funds.

Texas Research University Fund. The bill would create the Texas Research University Fund, formerly the Texas Competitive Knowledge

Fund, to support faculty in order to ensure excellence in instruction and research. The fund would no longer be intended to serve institutions designated as emerging research universities, focusing instead only on research universities that had for any three consecutive years after 2010 made total annual research expenditures in an average annual amount of at least \$450 million.

Comprehensive Research Fund. The bill also would create the Comprehensive Research Fund, formerly the Research Development Fund, which would be intended to promote increased research capacity at general academic teaching institutions other than the University of Texas at Austin, Texas A&M University, or institutions that had been designated emerging research universities by the Texas Higher Education Coordinating Board. The Comprehensive Research Fund would consist of money appropriated by the Legislature to eligible institutions.

Core Research Support Fund. The bill also would create the Core Research Support Fund, which would provide funding for the sole purpose of increasing research capacity at institutions designated by the coordinating board as emerging research universities. The funding an institution would receive from the Core Research Support Fund would be based on both the restricted and total research funds expended by the institution. Institutions that received Core Research Support money would be required to submit a report to the coordinating board and Legislative Budget Board each fiscal year describing how the funds had been spent.

The bill would take effect September 1, 2015.

SUBJECT: Requiring TJJD to study pay-for-performance contract program

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — Murphy, Allen, Keough, Krause, Schubert, Tinderholt
0 nays
1 absent — J. White

WITNESSES: For — None
Against — None
On — Jennifer Carreon, Texas Criminal Justice Coalition; Chelsea Buchholtz, Texas Juvenile Justice Department

BACKGROUND: Pay-for-performance contracting is a funding method under which private organizations partner with government entities to provide services to the government entity and are paid by the government based on measurable outcomes.

DIGEST: HB 309 would require the Texas Juvenile Justice Department (TJJD) to conduct a study to determine the feasibility and potential costs and benefits of a pay-for-performance contract program.

Under such a program, TJJD would contract for the operation of juvenile justice programs or the provision of services that would be funded with investor-provided financial capital. TJJD would make payments to the contractor using general obligation bond proceeds or other money only if performance requirements and outcomes were achieved and there was a positive return on the investment to the state.

TJJD would produce a report on the study, which would have to include whether the agency determined that a pay-for-performance program would be cost effective and feasible. If TJJD made such a determination, the report would have to make recommendations on operating the

program, the types of programs and services that would be selected, and changes in laws needed to implement the program.

TJJD could request assistance with the study from the comptroller, the Texas Public Finance Authority, or other state agencies.

TJJD would have to submit the report by November 1, 2016, to the governor, lieutenant governor, and the heads of the House and Senate committees with jurisdiction over juvenile justice programs and services.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Allowing a venue district to act as an endorsing jurisdiction for funding

COMMITTEE: Economic and Small Business Development — committee substitute recommended

VOTE: 6 ayes — Button, C. Anderson, Faircloth, Isaac, Metcalf, E. Rodriguez
0 nays
3 absent — Johnson, Villalba, Vo

WITNESSES: For — Janis Burke, Harris County-Houston Sports Authority; (*Registered, but did not testify*: Colin Parrish, Andrews Kurth LLP; Mark Arnold, General Counsel to Harris County-Houston Sports Authority; Mike Sullivan, Harris County Tax Assessor-Collector)

Against — None

BACKGROUND: Local Government Code, ch. 335 affords the creation of sports and community venue districts where municipalities and other local governments can partner to fund, build, and administer stadiums and other venues.

Vernon’s Civil Statutes, art. 5190.14 allows an endorsing municipality or county to apply for funding from the Major Events Trust Fund. These jurisdictions endorse an event, making it eligible for funding. Entities that are not municipalities or counties cannot endorse events for the Major Events Trust Fund.

DIGEST: CSHB 3402 would allow venue districts in counties with a population greater than 3.3 million (Harris County) to act as endorsing municipalities or counties for the purposes of the Major Events Trust Fund.

In determining the incremental increase in tax revenue from the event, the comptroller would take into account the gains in taxes levied by each of the constituent municipalities or counties, rather than the taxes levied by the venue district. The venue district could guarantee the district’s

obligations under a games or event support contract by pledging surcharges from user fees, such as parking and ticket sales, related to the event.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Amending the organization of a grand jury

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Herrero, Moody, Canales, Hunter, Leach, Shaheen, Simpson
0 nays

WITNESSES: For — Kathy Swilley, Johnny Mata, Kathy Self, Greater Houston Coalition For Justice; Patsy Pate, Greater Houston Coalition for Justice/Victims' Rights Committee; Collette Flanagan, Kristi Lara, Mothers Against Police Brutality; Patricia Cummings, Texas Criminal Defense Lawyers Association; Fidel Acevedo, Texas League of United Latin Americans Citizens; (*Registered, but did not testify*: Hai Bui, Greater Houston Coalition for Justice; Tiana Sanford, Montgomery County District Attorney's Office; Sarah Pahl, Texas Criminal Justice Coalition; Amanda Marzullo, Texas Defender Service; Yannis Banks, Texas NAACP)

Against — Bob Perkins

BACKGROUND: Code of Criminal Procedure, art. 19 allows jury commissioners appointed by the district judge to select prospective grand jurors from the community at large. The jury commissioners must meet certain qualifications, including that they can read and write in English, are qualified jurors, have no suit in court that requires a jury, are residents of different portions of the county, and have not served as jury commissioner within the last year.

Art. 19.23 also requires that jurors already be questioned on whether they have been convicted of or under indictment for a felony. The jurors are not questioned on misdemeanor offenses.

DIGEST: CSHB 282 would remove provisions requiring jury selection by jury commissioners as a method for organizing a grand jury, and would remove the provisions regarding commissioner qualifications. The bill also would require a judge to direct that 20 to 125 prospective grand

jurors be selected and summoned in the same way as panels for the trial of civil cases in district courts.

The bill would require that when testing the qualifications of a grand juror, the person be asked if he or she has ever been convicted of misdemeanor theft, or if they are under indictment or legal accusation for misdemeanor theft.

The bill would require the court to select 12 individuals to serve as grand jurors and two additional individuals to serve as alternate grand jurors. The bill would allow the selection to be made only when at least 14 qualified jurors were present.

The bill would add that a person would be considered unavailable to serve on a grand jury for any reason determined by the court as constituting good cause for dismissing a juror. The bill also would repeal several sections in the Code of Criminal Appeals regarding organization of the grand jury, and part of a section of the Government Code regarding empaneling a grand jury.

This bill would take effect September 1, 2015.

SUBJECT: Expanding local preference for municipal procurement

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 6 ayes — Alvarado, R. Anderson, Bernal, Elkins, Schaefer, M. White
0 nays
1 absent — Hunter

WITNESSES: For — Troy Elliott, City of San Antonio; (*Registered, but did not testify*:
Brie Franco, City of El Paso; Shanna Igo, Texas Municipal League)

Against — None

BACKGROUND: Local Government Code, ch. 271 authorizes local governments to grant preference to local businesses for procuring certain products and services if the bidders' principal place of business is within the boundaries of the local government and whose bids are within 3 percent of the lowest bid or 5 percent in the case of sealed bids.

Some Texas cities have municipal enclaves or close suburbs that are effectively part of the city's economy. Because local-preference options are intended to aid local governments in helping the local economy, certain cities wish to apply local-preference options to businesses located in different municipalities in the same county.

DIGEST: CSHB 3193 would allow municipal governments to consider a business located in the same county as the municipality, but not in the city itself, to be treated as if it were located in the municipality for the purposes of local preference in procurement.

The bill would allow cities that received one or more proposals from a bidder with a principal place of business in the city or a place of business outside the city but in a county in which the city was located to consider the bidder's principal place of business as a percentage of the evaluation factors. Cities would be authorized to treat bidders located outside the city

but in the same county as the city as if the bidder was in the city.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Allocating a portion of the hotel occupancy tax to certain municipalities

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 9 ayes — D. Bonnen, Y. Davis, Bohac, Button, Darby, Martinez Fischer,
Murphy, C. Turner, Wray

0 nays

2 absent — Parker, Springer

WITNESSES: For — (*Registered, but did not testify*: Brooks Bennett, Laurie Hadley,
and Alan McGraw, City of Round Rock; Justin Bragiel, Texas Hotel and
Lodging Association; Martin Heines, the City of Tyler)

Against — None

On — (*Registered, but did not testify*: Donald Dillard, Texas Comptroller
of Public Accounts)

BACKGROUND: Tax Code, sec. 351.102 allows certain municipalities to allocate hotel
occupancy tax revenue collected from hotels located on property owned
by the municipality to pay bonds or obligations from the acquisition of
convention center entertainment-related facilities, restaurants, shops, and
parking facilities within 1,000 feet of the hotel or convention center.

DIGEST: CSHB 3113 would allow a municipality that met the description in the bill
(Round Rock and Tyler) to use hotel occupancy taxes in accordance with
the guidelines provided in Tax Code, sec. 351.102. It also would expand
the guidelines to allow eligible municipalities to use this revenue for
meeting spaces, public spaces, plazas, and street, sewer, and water
infrastructure, among other ancillary purposes.

This bill would take immediate effect if finally passed by a two-thirds
record vote of the membership of each house. Otherwise, it would take
effect September 1, 2015.

NOTES: The Legislative Budget Board's fiscal note estimates that the bill would have no fiscal impact through fiscal 2016-17. However, the bill would have an estimated negative impact of about \$1 million to general revenue in fiscal 2018-19.

SUBJECT: Requiring legible magistrate name in search warrants; warrant tampering

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Shaheen, Simpson
0 nays
1 absent — Leach

WITNESSES: For — Joel Rivera, Hidalgo County Sheriff's Office; (*Registered, but did not testify*: Steve Dye, Grand Prairie Police Department; Thomas Ratliff, Harris County Criminal Lawyers Association; David Gonzalez, Texas Criminal Defense Lawyers Association; Deanna L. Kuykendall, Texas Municipal Courts Association; Lon Craft, Texas Municipal Police Association; Heath Wester, Texas Municipal Police Association)

Against — None

BACKGROUND: Code of Criminal Procedure, art. 18.04 outlines the contents required to make a search warrant sufficient, including that it be signed and dated by the magistrate issuing the warrant. A magistrate's signature on such warrants may not always be clearly legible, which can increase the risk of forgery or inadequately informing individuals of who has authorized the search warrant.

Penal Code, sec. 37.10 establishes that it is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) to tamper with certain governmental records, such as a written report of a medical examination or a public school record.

DIGEST: CSHB 644 would add to existing search warrant requirements that the name of the magistrate issuing the warrant appear in clearly legible handwriting or in typewritten form on the warrant. This change also would apply to search warrants to photograph an injured child under Code of Criminal Procedure, art. 18.021(c).
The bill would make it a third-degree felony to tamper with a search

warrant issued by a magistrate.

The requirement that search warrants contain the name of the magistrate in clearly legible writing or type would apply to search warrants issued on or after the effective date of the bill. The change in law regarding tampering with a search warrant issued by a magistrate would apply only to offenses committed on or after the effective date of the bill.

The bill would take effect September 1, 2015.

SUBJECT: Hiring of a director and assistant director of the TMPC

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 4 ayes — S. King, Aycock, Blanco, Farias
3 nays — Frank, Schaefer, Shaheen

WITNESSES: For — William Parry; (*Registered, but did not testify*: Jim Brennan, Texas Coalition of Veterans Organizations)
Against — None
On — (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi)

BACKGROUND: Government Code, ch. 436 establishes the Texas Military Preparedness Commission. The commission does not currently employ an assistant director, and all administrative responsibilities of the commission fall solely on the director. The director also currently serves as the director of Aerospace and Aviation in the Economic Development and Tourism Office within the Office of the Governor.

DIGEST: CSHB 882 would require the Texas Military Preparedness Commission, subject to approval of the governor, to hire an assistant director to assist the director of the commission in the performance of the administrative duties of the commission.

In hiring the director and the assistant director, the bill would require the commission to consider applicants who have significant and extensive experience and knowledge relating to military installation operations, the defense industry, and the

U.S. Department of Defense, including retired senior military officers from any branch of the U.S. armed forces. The bill would prohibit the director from holding another position in the Office of the Governor.

The bill would take effect September 1, 2015.

SUBJECT: Designation of optometrists and ophthalmologists as preferred providers

COMMITTEE: Insurance — favorable, without amendment

VOTE: 8 ayes — Frullo, Muñoz, G. Bonnen, Guerra, Meyer, Paul, Sheets, Workman
0 nays
1 absent — Vo

WITNESSES: For — Tommy Lucas and Ron Hopping, Texas Optometric Association;
(*Registered, but did not testify:* Mark Hanson, BJ Avery, Jennifer Deakins, David Frazee, Kevin Gee, and Laurie Sorrenson, Texas Optometric Association; Bob Day; Joe DeLoach; Vim Head; Steven Nguyen)

Against — None

On — Debra Diaz-Lara, Texas Department of Insurance

BACKGROUND: Insurance Code, ch. 1301 governs preferred provider benefit plans in which an insurer provides, through its health insurance policy, for the payment of a level of coverage that is different from the basic level of coverage provided by the health insurance policy if the insured person uses a preferred provider.

There are concerns that managed care plans have created obstacles for optometrists and ophthalmologists to become in-network providers, creating problems for eye care practices that want to hire additional doctors to serve their patient base. For this reason, some have called for legislation that would allow existing eye care practices to hire additional doctors when needed with the certainty that an insurer would not withhold the designation of preferred provider to those additional doctors.

DIGEST: HB 963 would prohibit an insurer from withholding the designation of preferred provider to an optometrist, therapeutic optometrist licensed by the Texas Optometry Board, or an ophthalmologist licensed by the Texas

Medical Board who:

- joined the professional practice of a contracted preferred provider;
- applied to the insurer for designation as a preferred provider; and
- complied with the terms and conditions of eligibility to be a preferred provider.

An optometrist, therapeutic optometrist, or ophthalmologist designated as a preferred provider would have to comply with the terms of the preferred provider contract used by the insurer or the insurer's network provider.

The bill would take effect September 1, 2015, and would apply only to a contract between a preferred provider and an insurer that was entered into or renewed on or after that date.

SUBJECT: Adding presidential debates as an eligible Major Events Trust Fund event

COMMITTEE: Economic and Small Business Development — favorable, without amendment

VOTE: 6 ayes — Button, Johnson, C. Anderson, Faircloth, Isaac, Villalba

0 nays

3 absent — Metcalf, E. Rodriguez, Vo

WITNESSES: For — (*Registered, but did not testify*: Dana Harris, Austin Chamber of Commerce; Mindy Ellmer, North Texas Commission; Carlton Schwab, Texas Economic Development Council; Brian Sullivan, Texas Hotel and Lodging Association; Homero Lucero, Texas Travel Industry Association)

Against — None

On — (*Registered, but did not testify*: Robert Wood, Comptroller of Public Accounts)

BACKGROUND: The Major Events Trust Fund provides an economic incentive for organizations to host large events in Texas. The comptroller estimates the amount of state and local tax revenue to be generated by an event, and this amount is set aside in the trust fund to defray the cost of hosting the event. An event must be listed under Vernon's Texas Civil Statutes, art. 5190.14, sec. 5A to be eligible.

DIGEST: HB 1318 would include presidential general election debates run by the Commission on Presidential Debates in the list of events eligible for disbursements from the Major Events Trust Fund.

This bill would take effect September 1, 2015.

SUBJECT: Eligibility for admission to educator preparation programs

COMMITTEE: Public Education — committee substitute recommended

VOTE: 11 ayes — Aycock, Allen, Bohac, Deshotel, Dutton, Jr., Farney, Galindo, González, Huberty, K. King, VanDeaver

0 nays

WITNESSES: For — Rae Queen, ACT San Antonio; Mike Meroney, Coalition for Effective Educator Preparation; Sandra West, Science Teachers of Texas; (*Registered, but did not testify*: Kate Kuhlmann, Association of Texas Professional Educators; Holly Eaton, Texas Classroom Teachers Association)

Against — (*Registered, but did not testify*: Melva V. Cardenas, Texas Association of School Personnel Administrators)

On — (*Registered, but did not testify*: Tim Miller, Texas Education Agency)

BACKGROUND: Education Code, sec. 21.0441 establishes admission requirements for educator preparation programs, including grade point average requirements. Programs may admit under extraordinary circumstances a certain percentage of students whose GPA is below the required minimum. Some say it is in the best interest of the state to modify this exception.

DIGEST: CSHB 1300 would permit an educator preparation program to admit in extraordinary circumstances a person who failed to satisfy a GPA requirement provided that not more than 10 percent of the total number of persons in a year failed to satisfy the requirement and that each person admitted performs, before admission, at a satisfactory level on an appropriate subject matter examination for each subject in which the person sought certification.

This bill would take effect September 1, 2015.

SUBJECT: Revising drug Penalty Group 2-A for synthetic cannabinoids

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Herrero, Moody, Canales, Hunter, Leach
0 nays
2 absent — Shaheen, Simpson

WITNESSES: For — (*Registered, but did not testify*: Amy Granberry, Association of Substance Abuse Programs; Larry Smith, William Travis, Maxey Cerliano, Micah Harmon, and A.J. Louderback, Sheriffs' Association of Texas; Micahael Pacheco, Texas Farm Bureau; Donald Baker, Texas Police Chiefs Association; James Grunden and Bobby Sanders, Upshur County Sheriff's Office, Anna Bowers; James Capra; R. Glenn Smith)

Against — None

On — Drew Fout, Department of Public Safety Crime Lab; Azell Carter, Pasadena Police Department Regional Crime Laboratory; Aaron Crowell, Texas Municipal Police Association; (*Registered, but did not testify*: Skylor Hearn, Department of Public Safety)

BACKGROUND: Health and Safety Code, ch. 481 is the Texas Controlled Substances Act. It categorizes illegal substances into schedules and penalty groups and provides penalties for the manufacture, delivery, and possession of controlled substances. Penalty Group 2-A consists of compounds that are synthetic cannabinoids.

"Controlled substances" are defined in sec. 481.002(5) as substances, including drugs, adulterants, and dilutants listed in schedules I through V or penalty groups 1, 1-A or 2 through 4. "Controlled substance analogues" are defined in sec. 481.002(6) as substances with chemical structures similar to the chemical structures of controlled substances in schedule I or II or in penalty groups 1, 1-A, or 2. The definition of "controlled substance analogue" also includes substances specifically designed to

produce an effect similar to or greater than the effect of certain controlled substances.

Health and Safety Code, sec. 481.119 establishes punishments for substances that are not listed in penalty groups but are listed in schedules. Schedules are lists of controlled substances maintained under Health and Safety Code, sec. 481.032 by the Department of State Health Services that track federal lists of controlled substances.

Sec. 481.119(a) makes it a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) to knowingly manufacture, deliver, or possess with intent to deliver a controlled substance in a schedule but not a penalty group. Sec. 481.119(b) makes it a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) to possess a controlled substance listed in a schedule but not in a penalty group.

DIGEST: HB 1424 would expand the lists of chemical compounds listed in Penalty Group 2-A, which governs synthetic cannabinoids. It also would include Penalty Group 2-A within the definitions of “controlled substance” and “controlled substance analogue.” The bill would add Penalty Group 2-A to a list of penalty groups that can be prosecuted for substance analogues.

The bill would increase the punishments for repeat offenses of knowingly manufacturing, delivering, or possessing with the intent to deliver a controlled substance in a schedule but not a penalty group. The punishment would increase from a class A misdemeanor to a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) for second offenses. Third and subsequent offenses would increase to a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

The bill would take effect September 1, 2015, and would apply to offenses committed on or after that date.

SUPPORTERS SAY: HB 1424 would better enable law enforcement officers to combat dangerous synthetic cannabinoids. In 2011, the Legislature created Penalty Group 2-A for synthetic marijuana to address a growing problem

with drugs such as K2 and Spice, and problems with the drugs continue. These powerful drugs are unsafe synthetic compounds with serious side effects.

The 2011 legislation placed specific compounds that described common synthetic cannabinoids into the new penalty group. However, the legislation did not include the new penalty group with other penalty groups within the definitions of “controlled substance” and “controlled substance analogue” or in a list of penalty groups that can be prosecuted for substance analogues. HB 1424 would remedy this oversight by including Penalty Group 2-A in these sections.

HB 1424 would address the growing types of synthetic cannabinoids by expanding the list of substances that fall under Penalty Group 2-A to include additional versions of the drug. This expansion would make it easier to identify and prosecute new, dangerous versions of synthetic marijuana.

HB 1424 would deter repeat drug offenders and punish them more appropriately than current law does by increasing the punishments for second and subsequent offenses by manufacturers, distributors, and sellers of drugs that appear in schedules but not in penalty groups. The bill would focus on offenses by these groups, not simple possession. The punishments governing drugs in schedules, but not penalty groups, could be used for synthetic marijuana not covered by Penalty Group 2-A. Currently, repeat offenses under this section would continue to be handled as class A misdemeanors, something that does not reflect the seriousness of dealing in synthetic marijuana, especially by someone who already has been convicted once.

**OPPONENTS
SAY:**

Raising penalties, especially to the felony level, for repeat offenses relating to manufacturing, delivering, or selling certain controlled substances not in a penalty group could result in overly harsh penalties for some lower-level sellers.